

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LARRY B. JOHNSON,	§	
Petitioner,	§	
	§	
v.	§	No. 3:21-cv-02926-C (BT)
	§	
DIRECTOR, TDCJ-CID,	§	
Respondent.	§	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

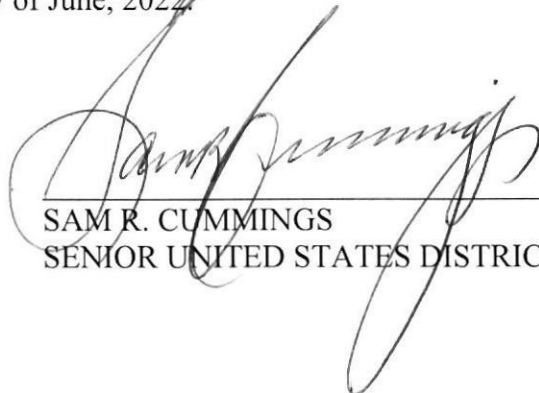
On April 20, 2022, Petitioner Larry B. Johnson filed a motion seeking a stay and abeyance of his case filed under 28 U.S.C. § 2254.¹ (Doc. 20.) At the direction of the Court, Respondent filed a response to the motion on May 20, 2022. (Doc. 22.) The Court then instructed Johnson to file any reply by June 6, 2022. (Doc. 23.) On June 7, 2022, the United States Magistrate Judge entered findings and conclusions, recommending that Johnson's motion seeking a stay and abeyance be denied. (Doc. 24.) Finally, on June 5, 2022, Johnson filed his reply, but it was not received by the Court until June 10, 2022. (Doc. 25.) As it must, the Court has liberally construed the arguments contained in Johnson's reply. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam) (holding allegations by a *pro se* litigant must be given liberal construction to ensure the claims are not unfairly dismissed due to their unfamiliarity with the law). Johnson argues that he has demonstrated each of the factors under *Rhines v. Weber*, 544 U.S. 269 (2005). (Doc. 25 at 2, 6.) However, the Court is not persuaded by Johnson's argument, and as the United States

¹ A prisoner's pleading is deemed filed on the date it is delivered to prison officials for mailing to the clerk of court. *Houston v. Lack*, 487 U.S. 266, 276 (1988).

Magistrate Judge determined, Johnson has failed to demonstrate all three *Rhines* factors. As the United States Magistrate Judge found, a stay is only appropriate when a petitioner shows all three factors under *Rhines*, and in Johnson's case, he did not make the requisite showing. This outcome is not altered by Johnson's Reply received on June 10, 2022.

After making an independent review of the pleadings, files and records in this case, and the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the Court finds that the Findings and Conclusions are correct, and they are adopted. **IT IS, THEREFORE, ORDERED** that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are accepted and Johnson's Motion is **DENIED**.

SO ORDERED this 21st day of June, 2022.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE